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<b>UTILITY PATENT APPLICATION TRANSMITTAL</b>  <i>(Only for new nonprovisional applications under 37 CFR 1.53(b))</i>	<b>Attorney Docket No.</b> PLA-116(CIP)	
	<b>First Inventor</b> Richard S. CHOMIK	
	<b>Title</b>	Waste Storage Device
	<b>Express Mail Label No.</b> EV349097966US	

U.S. PTO  
10/714381

11/06/2003

<b>APPLICATION ELEMENTS</b> See MPEP chapter 600 concerning utility patent application contents.	<b>ADDRESS TO:</b> Assistant Commissioner for Patents Box Patent Application Washington, DC 20231
1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) <i>(Submit an original and a duplicate for fee processing)</i> 2. <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. 3. <input checked="" type="checkbox"/> Specification <i>(Total Pages 49)</i> <i>(preferred arrangement set forth below)</i> - Descriptive title of the invention - Cross Reference to Related Applications - Statement Regarding Fed sponsored R & D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the invention - Brief Summary of the invention - Brief Description of the Drawings <i>(if filed)</i> - Detailed Description - Claim(s) - Abstract of the Disclosure 4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) <i>[Total Sheets 24]</i> 5. Oath or Declaration <i>[Total Pages 4]</i> a. <input checked="" type="checkbox"/> Newly executed (original or copy) Copy from a prior application (37 CFR 1.63 (d)) (for continuation/divisional with Box 18 completed) b. <input type="checkbox"/> <b>DELETION OF INVENTOR(S)</b> Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b). 6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76	7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program <i>(Appendix)</i> 8. Nucleotide and/or Amino Acid Sequence Submission <i>(if applicable, all necessary)</i> a. <input type="checkbox"/> Computer Readable Form (CRF) b. Specification Sequence Listing on: i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper c. <input type="checkbox"/> Statements verifying identity of above copies
<b>ACCOMPANYING APPLICATION PARTS</b> 9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s)) 37 CFR 3.73(b) Statement <input type="checkbox"/> Power of Attorney (when there is an assignee) 10. <input type="checkbox"/> English Translation Document <i>(if applicable)</i> 11. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations 12. <input type="checkbox"/> Preliminary Amendment 13. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) <i>(Should be specifically itemized)</i> 14. <input type="checkbox"/> Certified Copy of Priority Document(s) <i>(if foreign priority is claimed)</i> 15. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent. 16. <input checked="" type="checkbox"/> Other: See attached sheet	

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☒ Continuation-in-part (CIP) of prior application No. [TBD]


Prior application information:


Examiner:

Group Art Unit:

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 19. CORRESPONDENCE ADDRESS

<input checked="" type="checkbox"/> Customer Number or Bar Code Label				or <input type="checkbox"/> Correspondence address below	
<b>Name</b> Pillsbury Winthrop LLP					
<b>Address</b> 1600 Tysons Boulevard					
<b>City</b>	McLean	<b>State</b>	VA	<b>Zip Code</b>	22102
<b>Country</b>	USA	<b>Telephone</b>	203-965-8254	<b>Fax</b>	203-965-8226

<b>Name (Print/Type)</b>	Steven J. MOORE	<b>Registration No. (Attorney/Agent)</b>	35,959
<b>Signature</b>		<b>Date</b>	11/06/2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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01919 U.S. PTO

PTO/SB/17 (05-03)

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**FEE TRANSMITTAL**  
**for FY 2003**

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$ 2,322)**Complete if Known**

Application Number	[TBD]
Filing Date	November 6, 2003
First Named Inventor	Richard S. CHOMIK
Examiner Name	[TBD]
Art Unit	[TBD]
Attorney Docket No.	PLA-116(CIP)

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit Account Number  
03-3975Deposit Account Name  
Pillsbury Winthrop

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee (\$)		
1001	750	2001	375	Utility filing fee	770
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
<b>SUBTOTAL (1)</b>					<b>(\$ 770)</b>

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

		Extra Claims		Fee from below	Fee Paid
Total Claims	68	-20** =	48	x 18	= 864
Independent Claims	11	-3** =	8	x 86	= 688
Multiple Dependent					

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	84	2201	42	Independent claims in excess of 3	
1203	280	2203	140	Multiple dependent claim, if not paid	
1204	84	2204	42	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	
<b>SUBTOTAL (2)</b>					<b>(\$ 1,552)</b>

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Code (\$)	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	820*	1804	820*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	830	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1808	180	1808	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(e))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** (\$ )**SUBMITTED BY**

(Complete if applicable)

Name (Print/Type)	Steven J. Moore	Registration No. (Attorney/Agent)	35,959	Telephone	203-965-8254
Signature	<i>Steven J. Moore</i>	Date	November 6, 2003		

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**Utility Patent Application Transmittal, Continuation Sheet**

**Accompanying Application Parts:**

- Item 17:**
- a. Request for Interference between an Application and a Patent**
  - b. Statement of Attorney in Support of Request for Interference with Patent**
  - c. Corroborating Declaration**
  - d. Inventor's Declaration (Richard Chomik)**
  - e. Inventor's Declaration (Mark Yoho)**

**REQUEST FOR INTERFERENCE  
BETWEEN AN APPLICATION AND A PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	CHOMIK, Richard; YOHO, Mark; STUART, Leslie; KIM, Taek; PETRI, Aidan, and SEJNOWSKI, Joe	Art Unit:	TBA
Serial No.:	TBA	Examiner:	TBA
Filed:	Current Herewith		
For:	WASTE STORAGE DEVICE		

Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR INTERFERENCE UNDER 37 C.F.R. § 1.604**

Sir:

1. **Identification Of Patent In Interference**

Applicant requests that an interference be declared between the above-captioned application and U.S. Patent No. 6,612,099 B2, having the earliest possible effective filing date of May 2, 2001 (with respect to subject matter disclosed in U.S. Provisional Patent Application No. 60/288,186). The proposed count of the interference is:

2. **Presentation Of Proposed**

**COUNT 1**

A waste disposal device, comprising:

a container defining a waste chamber for receiving encapsulated waste packages;

a lid coupled to said container and movable between an open position in which said

chamber is accessible and a closed position in which said chamber is covered, said lid optionally comprising a toothed member;

a cartridge, optionally comprising a gear rim, arranged in said container and containing a length of flexible tubing arranged to receive waste packages, said cartridge optionally being maintainable in a stationary position;

a retention mechanism or unit, optionally comprising a gear rim, for holding a waste package received in said tubing; and either

(a) a rotation mechanism or means, optionally comprising a gear rim, arranged to rotate said retention mechanism, and thus a waste package when held by said retention mechanism, preferably while said cartridge is stationary, in order to twist said tubing and encapsulate the waste package; or

(a') a rotation mechanism engaging with said toothed member attached to said lid when said lid is optionally fitted with said toothed member and said gear rim of said cartridge when said cartridge optionally comprises a gear rim, during movement of said lid and comprising at least one gear arranged in said container for enabling the conversion of movement of said lid to rotational movement of said gear rim; or

(a'') a rotation mechanism engaging with said toothed member attached to said lid, when said lid is optionally fixed with the toothed member, and said gear rim of said retention mechanism, when said retention mechanism optionally comprises a gear rim, during movement of said lid and comprising at least one gear for enabling the conversion of movement of said gear rim and thus said retention mechanism;

and wherein said waste disposal device may further optionally comprise a compacting mechanism or means for compacting the waste packages.

### 3. Identification Of Claims In Patent Corresponding To Count

In accordance 37 C.F.R. § 1.607(3), Applicants identify at least one claim of the '365 patent that corresponds to the proposed count:

At least claims 1, 47, 56, 73 and 82 of U.S. Patent No. 6,612,099 B2 correspond to the proposed count. At least claims 2, 6, 10, 12 – 14, 20, 26, 31, 35 – 37, 46, 48, 57 – 63, 68, 72, and 76 – 78 substantially correspond to the count in that they are subsumed by the count but further recite additional specific structure.

4. Identification Of Claims Presented In Application Corresponding To Count

In accordance with 37 C.F. R. § 1.607(4), Applicants identify at least one claim of the application that corresponds to the proposed count.

At least claims 34, 49, 51, 61, and 66 of the present application correspond to the count. Claims 35 – 48, 50, 52 – 60, and 62 – 65 substantially correspond to the count in that they are subsumed by the count but further recite additional specific structure.

5. Correspondence Of Claims Of Application To Claims In U.S. Patent No. 6,612,099 B2

CLAIMS OF PRESENT APPLICATION	CORRESPONDING CLAIMS OF U.S. PATENT NO. 6,612,099 B2
34	1
35	2
36	6
37	10
38	12
39	13
40	14
41	15
42	20
43	26
44	31
45	35
46	36
47	37
48	46
49	47
50	48
51	56
52	57
53	58
54	59
55	60
56	61

57	62
58	63
59	68
60	72
61	73
62	74
63	76
64	77
65	78
66	82

6. Applying Terms Of Any Application Claim Identified As Corresponding To The Count

In accordance with 37 C.F.R. § 1.667(5), Applicants advise that support for all aspects of the claims submitted herewith is contained in the as-filed specification as set forth below.

CLAIM #, TERM OF CLAIM	SUPPORTING LANGUAGE IN THE SPECIFICATION (Page No., Line No., Element No. in Drawing)
34	Page 13, lines 24-28; page 14, lines 1-5 (paragraph 37); Figs. 1 and 15
35	Page 14, lines 5-7; Figs. 1 and 15
36	Page 14, lines 8-10 (paragraph 38); Fig. 1
37	Page 15, lines 6-10 (paragraph 41); Fig. 24
38	Page 15, lines 10-13 (paragraph 41); Fig. 15
39	Page 15, lines 15-17 (paragraph 42); Fig. 15
40	Page 15, lines 15-19 (paragraph 42); Fig. 17
41	Page 15, lines 20-25 (paragraph 43)
42	Page 16, lines 1-3 (paragraph 44); Fig. 21
43	Page 16, lines 4-12 (paragraph 45)
44	Page 16, lines 13-19 (paragraph 46); Figs. 18, 25, 26
45	Page 16, lines 20-22 (paragraph 47); Fig. 20
46	Page 16, lines 23-26 (paragraph 48); Fig. 20
47	Page 16, lines 1-5 (paragraph 49); Figs. 1-7, 17
48	Page 17, lines 6-7 (paragraph 50); Fig. 15
49	Page 14, lines 11-23 (paragraph 39); Fig. 3
50	Page 14, lines 20-23 (paragraph 39); Fig. 3
51	Page 14, lines 24-27; Page 15, lines 1-5 (paragraph 40); Fig. 5
52	Page 17, lines 13-14 (paragraph 52); Fig. 15
53	Page 17, lines 15-18 (paragraph 53)
54	Page 17, lines 17-21 (paragraph 53)

55	Page 17, lines 22-25 (paragraph 54); Fig. 24
56	Page 17, line 26; Page 18, line 1 (paragraph 54)
57	Page 18, lines 2-3 (paragraph 54); Fig. 15
58	Page 18, lines 4-7 (paragraph 54)
59	Page 16, lines 13-19 (paragraph 46); Fig. 18
60	Page 17, lines 1-5 (paragraph 49); Figs. 1, 5, 7
61	Page 18, lines 12-24 (paragraph 56); Fig. 3
62	Page 18, lines 26-27; page 19, line 1 (paragraph 57)
63	Page 19, lines 2-5 (paragraph 57); Fig. 3
64	Page 18, lines 24-25 (paragraph 56); Fig. 24
65	Page 19, lines 5-6 (paragraph 57); Fig. 15
66	Page 19, lines 7-15 (paragraph 58); Figs. 15, 21

7. Other

Applicants' effective filing date is earlier than the effective filing date of U.S. Patent No. 6,612,099 B2 in that the application claims under 35 U.S.C. §120 priority to April 10, 2001.

According to §1.607(o), Applicants advise that the requirements of 35 U.S.C. §135(b) are satisfied and urge that the degree of proof necessary to provoke this Interference is tendered herein. 35 U.S.C. §135(b) requires that for an Applicant seeking to provoke an Interference with an issued patent, a claim be submitted which is directed to the same or substantially the same presentation subject matter (as to the issued patent) at least one year prior to the issue date of the patent for which an Interference is sought and with respect to a claim which is the same as, or for the same or substantially the same subject matter as, a claim of an application published under section 122(b) at least 1 year after the date on which the application is published. This requirement is satisfied as the present application being filed within one year after the date on which the application leading to U.S. Patent No. 6,612,099 B2 published.

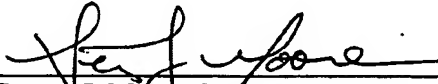
The undersigned respectfully avers that there is a reasonable basis to conclude that Applicants will be entitled to a judgment relative to the Patentee in an Interference between this application and U.S. Patent No. 6,612,099 B2, as defined by the above proposed count.



Therefore, based on the foregoing, all requirements for providing an Interference between this application and U.S. Patent No. 6,612,099 B2 are met. It is respectfully requested, as required under the rules, that this Request for Interference and application shall be accorded specific status and that an Interference be declared expeditiously.

An interference is believed to be necessary because the same invention is being claimed in these applications and priority cannot be determined without an interference.

Respectfully submitted,



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**STATEMENT OF ATTORNEY IN SUPPORT OF  
REQUEST FOR INTERFERENCE WITH PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	CHOMIK, Richard; YOHO, Mark; STUART, Leslie; KIM, Taek; PETRI, Aidan, and SEJNOWSKI, Joe	Art Unit:	TBA
Serial No.:	TBA	Examiner:	TBA
Filed:	Current Herewith		
For:	WASTE STORAGE DEVICE		

Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**LETTER IN SUPPORT OF REQUEST FOR INTERFERENCE WITH A  
PATENT UNDER 37 C.F.R. § 1.604**

Sir:

Accompanying this document are Declarations under 37 C.F.R. § 1.608(b) of Richard Chomik and Mark Yoho, Applicants herein, with attached Exhibits, and a corroborating declaration from Evan Hutchinson, in support of a Request for Interference with U.S. Patent No. 6,612,099 B2.

Applicants are prima facie entitled to an award of priority over said patent because:

(1) The effective filing date of the application for interference purposes is asserted to be April 10, 2001. Priority is asserted to this date for all matters previously disclosed in U.S. Provisional Patent Application No. 60/282,808, September 2, 2003 for all matter previously disclosed in U.S. Provisional Patent Application 60/499,443 that was not disclosed in U.S. Provisional Patent Application No. 60/282,808 or made obvious thereby, and November 6, 2003 for all other matter. The earliest possible effective filing date of this U.S. application is April 10, 2001.

(2) The effective filing date of U.S. Patent No. 6,612,099 B2 for interference purposes is asserted to be May 2, 2001. Priority is asserted to this date with respect to all subject matter disclosed in U.S. Provisional Patent Application No. 60/288,186, November 8, 2001 for all subject matter disclosed in U.S. Provisional Patent Application No. 60/337,355 but which is not disclosed or made obvious by the disclosure of U.S. Provisional Patent Application No. 60/288,286, and February 20, 2002 for all subject matter disclosed in U.S. Provisional Patent Application No. 60/359,148 which is not disclosed in either U.S. Provisional Patent Application No. 60/288,286 or 60/337,355, or made obvious thereby. The earliest possible effective filing date of U.S. Patent No. 6,612,099 B2 is May 2, 2001.

(4) Independent claims 1, 56, 73 and 82 from which claims 2 – 46, 57 – 72 and 74 -79 respectively depend, assert a rotation mechanism that rotates a retention mechanism to twist the tubing from the cassette. It is asserted that the illustration set forth at 15 of Exhibit A clearly demonstrates that such a concept was conceived at Playtex prior to the earliest possible effective filing date of U.S. Patent No. 6,612,099 B2 (May 2, 2001).

(5) Independent claims 47 and 73, from which claim 48 – 55 and claims 74 – 79 respectively depend, assert embodiments comprising a toothed member attached to the lid and either the cartridge (claim 47) or the retention mechanism comprising a gear rim. WO 02/083525 A1, claiming priority to U.S. Provisional Patent Application No. 60/282,808 filed April 10, 2001, clearly illustrates such elements with the toothed member being engaged with the gear rim when the lid is open by way of depression of the foot pedal. Further, F2 of Exhibit B clearly demonstrates a cartridge with a gear rim, as WO 02/083525 demonstrates a geared retention mechanism, was conceived by Playtex prior to the earliest possible priority date of U.S. Patent No. 6,612,099 B2. The only aspect of such claims not specifically illustrated at Exhibits A – D is “at least one gear” between the toothed member attached to the lid and either the geared cartridge or the geared retention mechanism. It is asserted, however, that such gear in itself is insufficient for patentability. Further, as indicated in the declaration of Mark Yoho, such a prototype was made prior to the earliest effective filing date of U.S. Patent No. 6,612,099 B2 (May 2, 2001) demonstrating conception and reduction to practice.

(6) Independent claim 82, from which claims 83 – 89 depend, which as indicated at (4) above asserts a rotation mechanism that rotates the retention mechanism, further asserts a compacting means for compacting the waste packages. A compacting means is seen in Exhibit B at U-19, comprising a pair of rollers through which the waste packages pass. As such the subject matter of claim 82 is asserted to have been clearly conceived by the Applicants prior to the earliest possible effective filing date of the application leading to U.S. Patent No. 6,612,099 B2.

(7) The declaration of Mark Yoho and Richard Chomik demonstrate diligence in the reduction of practice. Mr. Yoho declares in his declaration that he prepared a prototype having the mechanism of 15 of Exhibit A prior to the redacted date of Exhibit A. Further he indicates that he undertook work to improve on this concept, developing another prototype in which the cassette rather than the retention mechanism was geared, a concept shared with 4 Sight, Inc. that included such concept in Exhibit B at F2. Mr. Yoho and Mr. Chomik likewise indicates that since the date of Exhibit A, they diligently worked on perfecting mechanical and electro-mechanical mechanisms for automatically sealing the tubular waste packages. On April 10, 2001, both inventors caused a constructive reduction to practice to occur in the filing of Provisional Patent Application No. 60/282,808 and on September 2, 2003 in the filing of U.S. Patent Provisional Application 60/282,808. Exhibits E and F support the claim of continuing effort in the endeavor.

(8) The corroborating declaration of Evan Hutchinson supports Mr. Yoho's and Mr. Chomik's assertions with respect to conception and reduction to practice as do the Exhibits relied upon in the respective declarations. Mr. Hutchinson's declaration also indicates that at no time was the project to develop an improved automated approach to sealing the waste packages abandoned.

(9) A review of the file wrapper of U.S. Patent No. 6,621,099 B1 indicates in the Notice of Allowance that the claims were allowed based on the arguments filed by the Applicant Stravitz in his March 20, 2003 amendment which were found to be "persuasive." Such arguments are directed solely to U.S. Patent No. 4,869,049 to Richards *et al.* which was asserted against the claims as anticipating or making obvious the subject matter thereof. Applicants argued in overcoming the Richards *et al.* reference that the reference was "diametrically opposite

the embodiments of claims 1 and 56 in that instead of a cartridge which rotates relative to a fixed retention device (as in Richards *et al.*), these embodiments of the invention include a retention mechanism which rotates relative to a cartridge held in a stationary position." Such disclosure, however, is found in U.S. Provisional Patent Application No. 60/282,808 (an application from which the present Applicants seek priority), from which WO 02/083525 A1 seeks priority, the latter having published before the issue date of U.S. Patent No. 6,612,099 B2. It is asserted that all of the claims dependent from these independent claims are not patentable in themselves for lack of non-obvious subject matter.

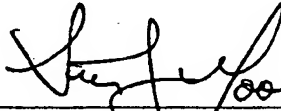
(10) The file wrapper of U.S. Patent No. 6,612,099 B2 also demonstrates that the Stravitz Applicant argued that with respect to claim 36 (delineated claim 40 in the response) that the Richards *et al.* reference does not suggest a removable hamper in the container having an outer wall which constitutes the outer wall of the container. I note that at M3 of Exhibit B such embodiment is clearly shown to have been developed prior to the earliest possible effective filing date of U.S. Patent No. 6,612,099 B2.

(11) The Applicant Stravitz's amendment referenced by the Examiner as "persuasive" with respect allowance also indicates that the Richards *et al.* reference also "does not provide any teaching or suggestion to couple the movement of the lid to the rotation of the cartridge," "does not disclose, teach or suggest rotating the retention mechanism relative cartridge," and "does not disclose, teach or suggest ... [a] compacting means." Each of these elements, however, are demonstrated in Exhibits A – D to have been developed at Playtex prior to the earliest effective filing date of U.S. Patent No. 6,612,099 B2 (see Exhibit A with respect to the first assertion, and Exhibit B with respect to the second and third assertions).

(12). There is no indication in the notice of allowance with respect to the dependent claims that the Examiner's allowance was based on Applicant Stravitz's assertions of non-obviousness and novelty with respect to the dependent claims, rather than that allowance be predicated on arguments made with respect to the independent claims from which dependent claims depended.

In light of the above, and the declarations accompanying this paper wherein the Applicants allege that there is basis upon which the Applicants are entitled to judgment relative to the patentee, an interference between the present application claiming priority back to an application filed before the earliest priority date of U.S. Patent No. 6,612,099B2 be declared. It is respectfully asserted that Applicants are entitled to a judgment relative to the patentee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Steven J. Moore', is written over a horizontal line.

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